IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

Anders Tronsen,

Plaintiff

v.

Toledo-Lucas County Public Library,

Defendant

Case No. 3:08CV148

ORDER

This is a pro se suit by a patron of the defendant Toledo-Lucas County Public Library. Plaintiff claims his First Amendment rights have been abridged by the defendant's suspension of his library privileges for a period of six months. The defendant represents that it based its suspension on a complaint by a female patron that the defendant, who was a stranger to her, had made an offensive statement in a note he gave to her.

Plaintiff's application for a temporary restraining order restoring his library privileges was denied.

Pending is plaintiff's "writ of prejudice" [Doc. 6], in which plaintiff seeks to have the undersigned recused, and asks for time within which to file a brief in support of his "writ." The defendant has filed an opposition to the "writ."

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Both the "writ" and request for time within which to file a brief will be denied. The "writ" is manifestly defective both on procedurally and substantive grounds.

First, as to procedure, the plaintiff has failed to file an affidavit in support of his claims of prejudice, as required by 28 U.S.C. § 144.

There is, in any event, no substantive merit to plaintiff's claim of prejudice. He seeks recusal on the putative basis that the undersigned

> made one or more statement(s) of Fact that were not supported by evidence in the case, to wit: That the premises of the Defendant is not a public forum. This is a matter of FACT to be determined according to evidence; since there has not been a trial in the case, the statement of the judge is presumptive and prejudices the determination of the matter.

[Doc. 6].

Thus, in essence, the plaintiff complains that I made an error when I stated, during the course of the hearing on his motion for a temporary restraining order, that the library, in the manner in which he was using it when he passed an offensive note to a female stranger, was not a public forum – i.e., he has no cognizable First Amendment right to write something to another that that other person finds offensive.

Courts have held that libraries are not "public forums" for all and unrestricted First Amendment free expression purposes. *See, e.g., U.S. v. Am. Library Ass'n, Inc.*, 539 U.S. 194, 206 (2003) ("A public library does not acquire Internet terminals in order to create a public forum for Web publishers to express themselves"); *Gember v. City of Lincoln*, 2007 WL 2904091, *1 (D.Neb.) ("libraries are not a public forum for speech").

To the extent a library may be deemed a limited public forum, such designation is limited to the library's conventional functions and purposes. *See, e.g., Kreimer v. Bureau of Police for Town of Morristown*, 958 F.2d 1242, 1262 (3d Cir. 1992) (A "Library is obligated only to permit the public to exercise rights that are consistent with the nature of the Library and consistent with the government's intent in designating the Library as a public forum.").

There is nothing "consistent with the nature of [a] Library" that entitles one patron to make unsolicited and unwelcome comments to another.

I made no error in stating that, with regard to plaintiff's conduct, as described by the defendant, the library was not a public forum for First Amendment purposes.

There is, accordingly, no substantive merit to the plaintiff's contention that my statements to that effect were "presumptive and prejudices the determination of" this matter.

Given the procedural defect of plaintiff's "writ" and its lack of any substantive merit, there is no reason to give him time to brief his contentions. The only consequence of permitting him to do so would be to cause the unnecessary and unwarranted expenditure of public resources in a response to any such brief.

It is, therefore,

ORDERED THAT plaintiff's "Writ of Prejudice" [Doc. 6], being deemed a motion for recusal, be, and the same hereby is denied. Further, Plaintiff's motion for extension of time be, and the same hereby is denied.

So ordered.

s/James G. Carr
James G. Carr
Chief Judge